IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 16167 OF 2005

Between:

Gajuwaka Marketing Chillera Vartaka Sangam,

Gajuwaka Visakhapatnam,Rep.by its Secretary Sri M.S.Suguneswara Rao S/o.Atchutaramaiah,

Age-64 yrs, R/o.29-8(3), B.C.Road, Gajuwaka

Visakhapatnam District (Regd.No.274/83)

..... PETITIONER

AND

1. The Commissioner of Gajuwaka Municipality
   Gajuwaka Visakhapatnam Dist.
2. The Special Officer Visakhapatnam Urban

Development Authority, Visakhapatnam.
3. The Superintending Engineer Roads & Buildings
   Gajuwaka Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in interfering with the market yard in S.No.75/6 of Gajuwaka Municipality, without providing alternative place with shops constructed therein to the members of the petitioner Sangam and

without following due process of law as illegal, arbitrary any violative of principles of natural justice and violative of Article 14 and 300-A of the Indian Constitution and further direct the respondents not to demolish the existing shops of the members of the petitioner Sangam particularly facing towards Kanithi road covered by S.No.75/6 except by due process of law and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: SMT.S.A.V.RATNAM

Counsel for the Respondent No.1 to 3:GP FOR ROADS & BUILDINGS

The Court made the following :

ORDER:

The petitioner is a Sangam, formed by its members, who are petty businessmen, and carrying on their business in the Market Yard situated in S. No. 75/6 of Gajuwaka Village, admeasuring about 80 cents. It is submitted that the said market belongs to Gajuwaka Municipality. While so, a suit OS No. 408 of 1986 was filed by one Bangar Raju seeking to restrain the petitioners from collectings licence fee and remuneration from the vendors of the Sangam, on the alleged ground that he is the owner, under the sale deed from one Mr. Bhanujee Rao. The said suit was partly decreed, permitting Bangar Raju to collect the licence fee, on the day of Shandy i.e. Saturday. On appeal by the petitioner and also Bangar Raju, it was held that there was no vested right over the property for Bangar Raju and since the property is a village site, Municipality has a right and this judgment and decree has become final. Thereafter, Gajuwaka Municipality has granted licences to the members to carryon the business. While so, the respondents with a view to widen Kanithi Road, has published notice in the local daily dated 15.7.2005 proposing to take an area of 40 feet towards northern side, effecting the business of the Sangam members. It is submitted that this the only source of livelihood to the samgham members. It is further asserted that such road widening is proposed without notice to the

sangham members and they are left with no rehabilitation. Therefore, seeking the above prayer, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Roads and Buildings.

The issue involved in this writ petition is no more *res integra* in view of the guidelines issued by a Division Bench of this court in *Pilli Lakshmana Rao and others Vs. Executive Officer, Gram Panchayath, Challapalle and others ()*, wherein it is held that when any property is required for public purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanation, the authorities shall pass appropriate orders.

Having regard to these guidelines, the respondents are directed to follow the guidelines issued in *Pilli Lakshmana Rao* case, if they intend to demolish the dwelling houses of the petitioners, as averred in the affidavit, if not already demolished.

With these directions, the writ petition stands disposed of. No order as to costs.

Elipe Dharma Rao, J.

July 22, 2005

To

1. The Commissioner of Gajuwaka Municipality

Gajuwaka Visakhapatnam Dist.

2. The Special Officer Visakhapatnam Urban

Development Authority, Visakhapatnam.

3. The Superintending Engineer Roads & Buildings
   Gajuwaka Visakhapatnam.

4. Two CCs to the Govt. Pleader for Roads and Buildings, High

Court Buildings, Hyderabad.

5. 2 CD copies

*Form-NIC-OGS/WP{**CHP**}*